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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,610	05/19/2005	George Marmarpoulos	US020464	7459

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

DAVIS, JENNA L

ART UNIT	PAPER NUMBER
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1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/535,610	Applicant(s) MARMARPOULOS, GEORGE	
	Examiner Jenna Davis	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/19/2005</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13, 15-18, 20-21, 23, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owen (US 6546285).

Owen teaches a flexible electrode comprising interwoven fibers (col. 10, lines 1-20) such as a metal cloth which would clearly include conductive fibers as required by claim 2 or may include a conductive silver/silver chloride ink which would be a conductive ink as required by claim 3. The electrode is part of a system wherein means for passing a current is provided and is controlled. The electrode may further include capsules which release a material to reduce skin irritation (col 14, lines 45-59) and these capsules may be microcapsules (col. 15, lines 13-19). The capsules are ruptured in response to the energy applied to the electrode which the Examiner equates with heating (col. 14, lines 45-59). A defibrillator is provided to selectively deliver energy to the circuit which the Examiner equates with the control means claimed. Owens is not specific as to where the capsules or microcapsules reside in the structure, but clearly the materials would be positioned at least on the fabric and thus would render the claimed invention obvious as providing a logical structure to the Owens material and system.

While Owens is not specific as to the composition of the microcapsules, the disclosure that the capsules release the contents thereof when associated with the energy provided by the

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defibrillator, it would be presumed that the materials are plastic thus rendering obvious claims 4 and 5.

As to claims 8 and 9, Owens teaches providing materials that are soothing to the skin to the electrodes and such materials are known to be liquids and to be scented.

As to claims 10, 11, and 13, clearly the Owens system includes a power source and various current path selectors since the system is intended to monitor the health of the individual wearing the system and is programmed to perform this function with timing being a key element of providing this function.

As to claims 15-18, 20 and 21 Owens is not specific as to the particular nature of the microcapsules, however the use of any commercially available materials that provide the healing or soothing function desired by the reference would have been within the purview of a person having ordinary skill in the art at the time the present invention was made.

Claims 12, 14, 19, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

While Owens teaches a fabric with microcapsules and circuitry, the reference and the prior art fail to teach a sensor that senses when a predetermined number of microcapsules have ruptured, a timer that determines when to deactivate the current based upon the melting point of the microcapsules, or selective means for heating various portions of the microcapsules. The purpose of the Owens system is to monitor and control the health of the wearer of the system. The provision of the microcapsules is only to allow the wearer of the system to be more

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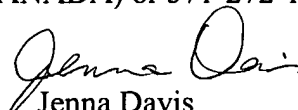
comfortable. Controlling the release of the materials within the microcapsules is not within the teachings of the prior art and is not shown or suggested.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna Davis whose telephone number is 571-272-3357. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jenna Davis
Primary Examiner
Art Unit 1771

jld